

AMENDED IN ASSEMBLY MAY 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1194

Introduced by Assembly Member Eggman

February 27, 2015

An act to amend Section 5150 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1194, as amended, Eggman. Mental health: involuntary commitment.

Existing law, the Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of persons with specified mental disorders for the protection of the persons so committed. Under the act, when a person, as a result of mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, he or she may, upon probable cause, be taken into custody by a peace officer, member of the attending staff of an evaluation facility, designated members of a mobile crisis team, or other designated professional person, and placed in a facility designated by the county and approved by the State Department of Social Services as a facility for 72-hour treatment and evaluation. Existing law requires, when determining if probable cause exists to take a person into custody, or cause a person to be taken into custody pursuant to the provisions described above, any person who is authorized to take or cause that person to be taken into custody to consider available relevant information about the historical course of the person's mental disorder, as specified, if the authorized person determines that information has a reasonable bearing on the determination described above.

~~This bill would provide that for purposes of determining whether a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, danger constitutes a present risk of harm that requires consideration of the historical course of a person's mental health disorder and shall not be limited to imminent or immediate risk of harm to others or to himself or herself.~~ *require, when determining if a person is a danger to himself or herself, or to others, as a result of a mental health disorder, that the individual making that determination consider available relevant information about the historical course of the person's mental disorder, as that phrase is defined, if the individual concludes that the information has a reasonable bearing on the determination.*

Existing law requires the admitting facility to require an application in writing stating the circumstances under which the person's condition was called to the attention of those persons authorized to make the determination of probable cause, and stating that he or she has probable cause, as specified.

The bill would also require the application to record whether the historical course of a person's mental disorder was considered in the determination of probable cause.

By imposing additional duties on local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5150 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 5150. (a) When a person, as a result of a mental health
- 4 disorder, is a danger to others, or to himself or herself, or gravely
- 5 disabled, a peace officer, professional person in charge of a facility
- 6 designated by the county for evaluation and treatment, member of

1 the attending staff, as defined by regulation, of a facility designated
2 by the county for evaluation and treatment, designated members
3 of a mobile crisis team, or professional person designated by the
4 county may, upon probable cause, take, or cause to be taken, the
5 person into custody for a period of up to 72 hours for assessment,
6 evaluation, and crisis intervention, or placement for evaluation
7 and treatment in a facility designated by the county for evaluation
8 and treatment and approved by the State Department of Health
9 Care Services. At a minimum, assessment, as defined in Section
10 5150.4, and evaluation, as defined in subdivision (a) of Section
11 5008, shall be conducted and provided on an ongoing basis. Crisis
12 intervention, as defined in subdivision (e) of Section 5008, may
13 be provided concurrently with assessment, evaluation, or any other
14 service.

15 ~~(b) For purposes of determining, under this section, whether a~~
16 ~~person, as a result of a mental health disorder, is a danger to others,~~
17 ~~or a danger to himself or herself, danger constitutes a present risk~~
18 ~~of harm that requires consideration of the historical course of a~~
19 ~~person's mental health disorder pursuant to Section 5150.05, and~~
20 ~~shall not be limited to imminent or immediate risk of harm to~~
21 ~~others or to himself or herself.~~

22 *(b) When determining if a person is a danger to himself or*
23 *herself, or to others, as a result of a mental health disorder, the*
24 *individual making that determination shall consider available*
25 *relevant information about the historical course of the person's*
26 *mental disorder, as that phrase is defined in Section 5150.05, if*
27 *the individual concludes that the information has a reasonable*
28 *bearing on the determination. For purposes of this section, danger*
29 *is not limited to danger of imminent harm.*

30 (c) The professional person in charge of a facility designated
31 by the county for evaluation and treatment, member of the
32 attending staff, or professional person designated by the county
33 shall assess the person to determine whether he or she can be
34 properly served without being detained. ~~If~~ If, in the judgment of
35 the professional person in charge of the facility designated by the
36 county for evaluation and treatment, member of the attending staff,
37 or professional person designated by the county, the person can
38 be properly served without being detained, he or she shall be
39 provided evaluation, crisis intervention, or other inpatient or
40 outpatient services on a voluntary basis. Nothing in this subdivision

1 shall be interpreted to prevent a peace officer from delivering
2 individuals to a designated facility for assessment under this
3 section. Furthermore, the assessment requirement of this
4 subdivision shall not be interpreted to require peace officers to
5 perform any additional duties other than those specified in Sections
6 5150.1 and 5150.2.

7 (d) Whenever a person is evaluated by a professional person in
8 charge of a facility designated by the county for evaluation or
9 treatment, member of the attending staff, or professional person
10 designated by the county and is found to be in need of mental
11 health services, but is not admitted to the facility, all available
12 alternative services provided pursuant to subdivision (b) shall be
13 offered as determined by the county mental health director.

14 (e) If, in the judgment of the professional person in charge of
15 the facility designated by the county for evaluation and treatment,
16 member of the attending staff, or the professional person designated
17 by the county, the person cannot be properly served without being
18 detained, the admitting facility shall require an application in
19 writing stating the circumstances under which the person's
20 condition was called to the attention of the peace officer,
21 professional person in charge of the facility designated by the
22 county for evaluation and treatment, member of the attending staff,
23 or professional person designated by the county, and stating that
24 the peace officer, professional person in charge of the facility
25 designated by the county for evaluation and treatment, member of
26 the attending staff, or professional person designated by the county
27 has probable cause to believe that the person is, as a result of a
28 mental health disorder, a danger to others, or to himself or herself,
29 or gravely disabled. The application shall also record whether the
30 historical course of the person's mental disorder was considered
31 in the determination, pursuant to Section 5150.05. If the probable
32 cause is based on the statement of a person other than the peace
33 officer, professional person in charge of the facility designated by
34 the county for evaluation and treatment, member of the attending
35 staff, or professional person designated by the county, the person
36 shall be liable in a civil action for intentionally giving a statement
37 that he or she knows to be false.

38 (f) At the time a person is taken into custody for evaluation, or
39 within a reasonable time thereafter, unless a responsible relative
40 or the guardian or conservator of the person is in possession of the

1 person's personal property, the person taking him or her into
2 custody shall take reasonable precautions to preserve and safeguard
3 the personal property in the possession of or on the premises
4 occupied by the person. The person taking him or her into custody
5 shall then furnish to the court a report generally describing the
6 person's property so preserved and safeguarded and its disposition,
7 in substantially the form set forth in Section 5211, except that if
8 a responsible relative or the guardian or conservator of the person
9 is in possession of the person's property, the report shall include
10 only the name of the relative or guardian or conservator and the
11 location of the property, whereupon responsibility of the person
12 taking him or her into custody for that property shall terminate.
13 As used in this section, "responsible relative" includes the spouse,
14 parent, adult child, domestic partner, grandparent, grandchild, or
15 adult brother or sister of the person.

16 (g) (1) Each person, at the time he or she is first taken into
17 custody under this section, shall be provided, by the person who
18 takes him or her into custody, the following information orally in
19 a language or modality accessible to the person. If the person
20 cannot understand an oral advisement, the information shall be
21 provided in writing. The information shall be in substantially the
22 following form:

23
24 My name is _____ .

25 I am a _____ .
26 (peace officer/mental health professional)

27 with _____ .
28 (name of agency)

29 You are not under criminal arrest, but I am taking you for an examination by
30 mental health professionals at _____ .

31 _____ .
32 (name of facility)

33 You will be told your rights by the mental health staff.
34

35 (2) If taken into custody at his or her own residence, the person
36 shall also be provided the following information:

37
38 You may bring a few personal items with you, which I will have
39 to approve. Please inform me if you need assistance turning off

any appliance or water. You may make a phone call and leave a note to tell your friends or family where you have been taken.

(h) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (f) which shall include all of the following:

- (1) The name of the person detained for evaluation.
- (2) The name and position of the peace officer or mental health professional taking the person into custody.
- (3) The date the advisement was completed.
- (4) Whether the advisement was completed.
- (5) The language or modality used to give the advisement.
- (6) If the advisement was not completed, a statement of good cause, as defined by regulations of the State Department of Health Care Services.

(i) (1) Each person admitted to a facility designated by the county for evaluation and treatment shall be given the following information by admission staff of the facility. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available to the person in English and in the language that is the person's primary means of communication. Accommodations for other disabilities that may affect communication shall also be provided. The information shall be in substantially the following form:

My name is _____.

My position here is _____.

You are being placed into this psychiatric facility because it is our professional opinion that, as a result of a mental health disorder, you are likely to (check applicable):

- ☐ Harm yourself.
- ☐ Harm someone else.
- ☐ Be unable to take care of your own food, clothing, and housing needs.

We believe this is true because

(list of the facts upon which the allegation of dangerous or gravely disabled due to mental health disorder is based, including pertinent facts arising from the admission interview).

1 You will be held for a period up to 72 hours. During the 72 hours you may
2 also be transferred to another facility. You may request to be evaluated or
3 treated at a facility of your choice. You may request to be evaluated or treated
4 by a mental health professional of your choice. We cannot guarantee the facility
5 or mental health professional you choose will be available, but we will honor
6 your choice if we can.

7 During these 72 hours you will be evaluated by the facility staff, and you
8 may be given treatment, including medications. It is possible for you to be
9 released before the end of the 72 hours. But if the staff decides that you need
10 continued treatment you can be held for a longer period of time. If you are
11 held longer than 72 hours, you have the right to a lawyer and a qualified
12 interpreter and a hearing before a judge. If you are unable to pay for the lawyer,
13 then one will be provided to you free of charge.

14 If you have questions about your legal rights, you may contact the county
15 Patients' Rights Advocate at _____

16 (phone number for the county Patients' Rights
17 _____ .
18 Advocacy office)

19 Your 72-hour period began _____ .
20 (date/time)

21
22 (2) If the notice is given in a county where weekends and
23 holidays are excluded from the 72-hour period, the patient shall
24 be informed of this fact.

25 (j) For each patient admitted for evaluation and treatment, the
26 facility shall keep with the patient's medical record a record of the
27 advisement given pursuant to subdivision (i), which shall include
28 all of the following:

- 29 (1) The name of the person performing the advisement.
30 (2) The date of the advisement.
31 (3) Whether the advisement was completed.
32 (4) The language or modality used to communicate the
33 advisement.
34 (5) If the advisement was not completed, a statement of good
35 cause.

36 SEC. 2. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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